THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 11994 of 2004

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Dated:16.08.2005

Between:

Gadamsetti Lalitha Kumari, W/o. Jagannadha Rao,
R/o. Visakhapatnam,

Rep by her G.P.A. Holder K.V. Seetha Ramaiah.

..... PETITIONER

AND

1 The Commissioner, Endowment Department, Hyderabad, and others.

.....RESPONDENTS

ORDER:

The petitioner herein purchased an extent of 555 square yards in Patta No.248 covered by Survey No.275/1D of Adivivaram, Pendurthi Mandal, Visakhapatnam District (for brevity 'petition property') under registered sale deed dated 06.06.1975. The Executive Officer of Sri Varaha Laxmi Narasimha Swamy Devasthanam, Simhachalam (for brevity 'the temple') notified certain lands as illegally occupied by some persons. This controversy ultimately resulted in issue of G.O.Ms.No.578, dated 19.08.2000, wherein the Government accepted recommendations of Legislative Assembly House Committee directing regularization of occupation by persons who are claiming the land under the alleged legal documents. In pursuance thereof, the petitioner made an application to the Regularization Committee along with the original sale deed. By the letter dated 26.06.2004, the petitioner was informed that in view of the rival claims by respondent Nos.3 and 4 herein for the same land, the petitioner's case for regularization cannot be considered. The petitioner was further advised to approach the Civil Court and file the suit for declaration. Nevertheless, it is alleged the Executive Officer of the temple issued regularization certificate in favour of respondent Nos.3 and 4 assailing which the present writ petition is filed seeking a declaration that the regularization of land in Survey No.275/1D admeasuring 555 square yards in favour of respondent Nos.3 and 4 is illegal, unreasonable and irrational.

Though W.V.M.P.No.1713 of 2005 is coming for the second time, learned counsel Sri A.Jagannatha Rao, is not present.

This Court while admitting the writ petition on 14.07.2004, passed interim orders in W.P.M.P.No.15249 of 2004 suspending the Land Regularization Certificate issued by the Executive Officer of the temple in favour of respondent Nos.3 and 4. After receiving notices, respondent Nos.3 and 4 filed W.V.M.P.No.1713 of 2005 and the temple has filed W.V.M.P.No.2784 of 2004 for vacating the interim orders passed by this Court. In view of one important subsequent event, which has a bearing on the present case, the matter is being disposed of at the interlocutory stage.

The petitioner herein filed O.S.No.513 of 2005 on the file of the Court of the II Additional Senior Civil Judge at Visakhapatnam for declaration that she is the absolute owner of the land admeasuring 555 square yards in Survey No.275/1D of Adivivaram Village, Pendurthi Mandal, Visakhapatnam, and for a consequential relief for directing the Executive Officer of the temple to issue Land Regularization Certificate by receiving the regularization fee. The filing of the suit by the petitioner while the present writ petition is pending before this Court would, needless to say - non-suit the petitioner in these proceedings. It is axiomatic that no citizen is entitled to pursue two remedies simultaneously one before a common law Court and another before this Court under Article 226 of the Constitution of India. Indeed, as pointed out by the learned Standing Counsel for the temple, Sri M.Adinarayana Raju, the relief prayed in the writ petition and the suit are substantially the same. If the petitioner desires to maintain statusquo as to the nature of the property, it is open to her to

move appropriate interlocutory application before the trial Court and obtain interim orders. In this writ petition no relief can be granted.

The writ petition, with the above observation, is dismissed. No costs.

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(V.V.S.RAO, J)

16.08.2005

vs